

# **E X H I B I T    7**

April 24, 2015

Jensen v. West Jordan City  
Ken Wallentine

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

\* \* \*

AARON JENSEN, )  
                  )  
Plaintiff,     )  
                  )  
vs.             )  
                  )  
WEST JORDAN CITY, a     ) Case No. 2:12-cv-00736  
Utah municipal     )  
corporation, DAN     ) Deposition of:  
GALLAGHER, in his     )  
official capacity,     ) KEN WALLENTINE  
ROBERT SHOBER, in     )  
his official         )  
capacity, and DOES     )  
1-10,             )  
                  )  
Defendants.     )

\* \* \*

April 24, 2015

9:00 a.m.

West Jordan City Offices  
8000 South Redwood Road  
West Jordan, Utah 84088

\* \* \*

- Linda Van Tassell, RDR/RMR/CRR -

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|---|--|------|-------------|---|----------------|----|-------------|----|----------------|----|---|
| <p style="text-align: center;"><b>A P P E A R A N C E S</b></p> <p>For the Plaintiff: Ashley F. Leonard<br/>HOLLINGSWORTH LAW OFFICE, LLC<br/>1115 South 900 East<br/>Salt Lake City, Utah 84105</p> <p>For the Defendants: Paul D. Dodd<br/>West Jordan City Offices<br/>8000 South Redwood Road<br/>West Jordan, Utah 84088<br/>* * *</p> <p style="text-align: center;"><b>I N D E X</b></p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; width: 60%;">EXAMINATION</th><th style="text-align: right; width: 40%;">PAGE</th></tr> </thead> <tbody> <tr> <td>By Mr. Dodd</td><td style="text-align: right;">3</td></tr> <tr> <td>By Ms. Leonard</td><td style="text-align: right;">31</td></tr> <tr> <td>By Mr. Dodd</td><td style="text-align: right;">51</td></tr> <tr> <td>By Ms. Leonard</td><td style="text-align: right;">52</td></tr> </tbody> </table> <p style="text-align: center;">DepomaxMerit</p> <p style="text-align: center;">Linda Van Tassell, CRR/RMR/RDR</p>  | EXAMINATION  | PAGE | By Mr. Dodd | 3 | By Ms. Leonard | 31 | By Mr. Dodd | 51 | By Ms. Leonard | 52 | <p>1           <b>Q. When were you POST certified?</b></p> <p>2           A. I don't recall when I was certified as a</p> <p>3           corrections officer. I was certified as a peace</p> <p>4           officer in 1981 or '82.</p> <p>5           <b>Q. Okay. And where did you work in law</b></p> <p>6           enforcement?</p> <p>7           A. I started at Brigham Young University in</p> <p>8           the campus police there. I worked at the Provo City</p> <p>9           Jail and Provo City Police Department and have</p> <p>10          worked at a number of other agencies.</p> <p>11          <b>Q. After your police career, did you later</b></p> <p>12          go to law school?</p> <p>13          A. During my police career I went to law</p> <p>14          school.</p> <p>15          <b>Q. Okay. And when did you go to law school</b></p> <p>16          and when did you graduate?</p> <p>17          A. I went to law school from 1987 to 1990.</p> <p>18          I graduated in April, I believe it was, of 1990.</p> <p>19          <b>Q. Did you begin working as an attorney</b></p> <p>20          after that?</p> <p>21          A. I have worked as an attorney</p> <p>22          consistently since then, most often part time as an</p> <p>23          attorney.</p> <p>24          <b>Q. Okay. What was your job immediately</b></p> <p>25          after graduation?</p> |
| EXAMINATION   | PAGE   |      |             |   |                |    |             |    |                |    |   |
| By Mr. Dodd   | 3  |      |             |   |                |    |             |    |                |    |   |
| By Ms. Leonard  | 31   |      |             |   |                |    |             |    |                |    |   |
| By Mr. Dodd   | 51   |      |             |   |                |    |             |    |                |    |   |
| By Ms. Leonard  | 52   |      |             |   |                |    |             |    |                |    |   |
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| <p>1           <b>P R O C E E D I N G S</b></p> <p>2           <b>KEN WALLENTINE,</b></p> <p>3           called as a witness on behalf of the defendants,</p> <p>4           being duly sworn, was examined and testified as</p> <p>5           follows:</p> <p>6           <b>EXAMINATION</b></p> <p>7          <b>BY MR. DODD:</b></p> <p>8          <b>Q. Mr. Wallentine, would you please state</b></p> <p>9          <b>your full name for the record.</b></p> <p>10         A. Ken Wallentine.</p> <p>11         <b>Q. And could you give your address? I</b></p> <p>12         <b>guess you don't have to if you don't want.</b></p> <p>13         A. No, I wouldn't.</p> <p>14         <b>Q. Okay. Why don't we start with a little</b></p> <p>15         <b>bit of just your -- you've had your deposition taken</b></p> <p>16         <b>before.</b></p> <p>17         A. I have.</p> <p>18         <b>Q. And I understand you're an attorney so</b></p> <p>19         <b>you understand how these proceedings work.</b></p> <p>20         A. Generally, yes.</p> <p>21         <b>Q. So I won't get into all the background</b></p> <p>22         <b>of those things with you. Why don't we just start</b></p> <p>23         <b>with your work background. Have you ever been a</b></p> <p>24         <b>police officer?</b></p> <p>25         A. Yes.</p> | <p>1           A. Immediately after graduation I clerked</p> <p>2           for a law firm in Salt Lake. I then clerked for</p> <p>3           Judge Gregory Orme of the Utah Court of Appeals and</p> <p>4           then clerked for Judge Edith Jones, the chief judge,</p> <p>5           past chief judge now of the 5th Circuit Court of</p> <p>6           Appeals. I returned to Salt Lake City, worked for</p> <p>7           Parsons Behle &amp; Latimer and I believe it was 1994</p> <p>8           moved to the Uintah Basin where I worked in the</p> <p>9           county attorney's office as well as the county</p> <p>10          sheriff's office.</p> <p>11          <b>Q. Okay. So did you work as a prosecutor</b></p> <p>12          <b>when you went to Uintah County?</b></p> <p>13          A. Yes.</p> <p>14          <b>Q. How long were you in Uintah County?</b></p> <p>15          A. I don't recall physically how long I was</p> <p>16          there. I believe it was until late 2001. There</p> <p>17          came a period of time when I was commuting from the</p> <p>18          Uintah Basin into Salt Lake City for work.</p> <p>19          <b>Q. After 2001, what was your next</b></p> <p>20          <b>employment?</b></p> <p>21          A. Well, 2001 I think is about when I</p> <p>22          moved. But prior to that I had taken a position as</p> <p>23          a bureau chief with the Utah Department of Public</p> <p>24          Safety. I think that was in 2000. And for a period</p> <p>25          of time I was driving back and forth from Vernal to</p> |      |             |   |                |    |             |    |                |    |   |

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| <p>1 Salt Lake City for work.</p> <p>2 Q. Okay. Did you ever have a job with</p> <p>3 POST?</p> <p>4 A. I did. I was a bureau chief at POST.</p> <p>5 Q. Okay.</p> <p>6 A. Which is part of the department of</p> <p>7 public safety.</p> <p>8 Q. And what is POST?</p> <p>9 A. POST is an acronym for Peace Officers</p> <p>10 Standards and Training. It's a division of the</p> <p>11 department of public safety that oversees training,</p> <p>12 certification and misconduct investigations of law</p> <p>13 enforcement officers in the state of Utah.</p> <p>14 Q. And you were the bureau chief there?</p> <p>15 A. I was the bureau chief over</p> <p>16 investigations and for a period of time bureau chief</p> <p>17 over in-service training.</p> <p>18 Q. Okay. So as a bureau chief of</p> <p>19 investigations, would you investigate allegations of</p> <p>20 misconduct of a police officer?</p> <p>21 A. Yes. Investigate as well as supervise a</p> <p>22 staff of five or so, maybe more at some point,</p> <p>23 investigators who would investigate officers accused</p> <p>24 of misconduct.</p> <p>25 Q. Okay. How many, ballpark figure, how</p>   | <p>1 happened.</p> <p>2 Q. What is your recollection?</p> <p>3 A. I received a phone call. I believe that</p> <p>4 the phone call came from Jeff -- is it Robertson or</p> <p>5 Robinson?</p> <p>6 Q. Robinson.</p> <p>7 A. -- Robinson and he asked whether the</p> <p>8 attorney general's office would provide an</p> <p>9 investigator to offer some resources to the City of</p> <p>10 West Jordan in connection with a case dealing with</p> <p>11 Aaron Jensen.</p> <p>12 Q. Okay. And are you aware, was that case</p> <p>13 an internal affairs investigation or was it a --</p> <p>14 what was the nature of the investigation would be a</p> <p>15 better question.</p> <p>16 A. My recollection is that it was an</p> <p>17 employment investigation. It was an internal</p> <p>18 affairs or an internal city investigation.</p> <p>19 Q. Okay. And do you recall why they were</p> <p>20 seeking the AG's assistance?</p> <p>21 A. I don't have a very specific</p> <p>22 recollection. My understanding, my recollection is</p> <p>23 that there was some suggestion that the city's</p> <p>24 investigation might have been biased or might not</p> <p>25 have been as thorough as one of the parties may have</p>  |
| Page 7   | Page 9  |
| <p>1 many cases of misconduct do you believe you were</p> <p>2 involved in the investigation process when you were</p> <p>3 at POST?</p> <p>4 A. Oh, my, it will be a ballpark figure.</p> <p>5 Directly involved in, well over 100. I also served</p> <p>6 twice as a member of POST counsel appointed by</p> <p>7 Governor Leavitt first. I also was involved in many</p> <p>8 cases in an adjudicative role, not investigating but</p> <p>9 overseeing the result of the investigation. I would</p> <p>10 say well over 100 and that's probably the closest</p> <p>11 I'm going to be able to give you.</p> <p>12 Q. That's fine. After your position with</p> <p>13 POST, where did you go?</p> <p>14 A. In 2005 I took the position as chief of</p> <p>15 law enforcement for the Utah Attorney General.</p> <p>16 Q. Okay. And how long were you the chief</p> <p>17 of law enforcement at the Utah Attorney General's</p> <p>18 office?</p> <p>19 A. Until April 1, 2014.</p> <p>20 Q. And while you were there at the attorney</p> <p>21 general's office, did you ever become acquainted</p> <p>22 with the name Aaron Jensen?</p> <p>23 A. I did.</p> <p>24 Q. Do you recall how that happened?</p> <p>25 A. I have a vague recollection of how that</p> | <p>1 wished and that sort of investigation was something</p> <p>2 that was routinely performed by the attorney</p> <p>3 general's office on behalf of local government</p> <p>4 entities and I think Mr. Robinson knew that or had</p> <p>5 been told that by someone. Anyway, that was</p> <p>6 something that routinely the office did and so he</p> <p>7 made the phone call and made the request.</p> <p>8 Q. Okay. Do you recall if there was ever</p> <p>9 an issue of a possible conflict with West Jordan</p> <p>10 doing their own investigation? Do you recall if</p> <p>11 that was an issue?</p> <p>12 A. I don't have any recollection of that</p> <p>13 being part of the discussion, but again, I don't</p> <p>14 have a very solid recollection of that conversation.</p> <p>15 Q. Okay. After that first conversation,</p> <p>16 did you ever -- do you recall if you learned at any</p> <p>17 point that there was an alleged conflict with West</p> <p>18 Jordan performing -- finishing the internal</p> <p>19 investigation?</p> <p>20 A. My sense is that there is some claim</p> <p>21 that there was. Whether there was an actual</p> <p>22 conflict or not, I don't know and, if I knew, I</p> <p>23 don't recall that.</p> <p>24 Q. Okay. Normally when the city or other</p> <p>25 agency seeks the AG's help for that type of</p> |

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| <p style="text-align: right;">Page 10</p> <p>1 investigation, is it normally because of -- well,<br/>     2 would it be abnormal for them to have a conflict<br/>     3 that they would seek an outside agency to help them?</p> <p>4 A. No. That was for -- the attorney<br/>     5 general's investigation division is a very common<br/>     6 vehicle to become involved in a local agency<br/>     7 investigation. It was not at all out of the normal.</p> <p>8 Q. Okay. After that phone call, did you<br/>     9 have -- do you recall a meeting with anyone from<br/>     10 West Jordan?</p> <p>11 A. Yes.</p> <p>12 Q. And you know what, I should probably ask<br/>     13 you this before we move on. The phone call -- I<br/>     14 know you're going to have to give a ballpark but do<br/>     15 you have any idea what time period that was?</p> <p>16 A. I struggled -- when I got the notice to<br/>     17 come here for a deposition, I really had to plumb my<br/>     18 memory as to who Aaron Jensen was and what it was<br/>     19 about. I later remembered very generally what it<br/>     20 was about but I cannot -- I don't even remember the<br/>     21 year. It's been -- it has been several years.<br/>     22 That's the best I can tell you.</p> <p>23 Q. I'm going to show you something just to<br/>     24 help you with your recollection. I know obviously<br/>     25 with the amount of investigations you have</p> | <p style="text-align: right;">Page 12</p> <p>1 through it and looking at some dates.<br/>     2 A. The first thing I see is 2008. I<br/>     3 probably would have pegged this in 2007, but I have<br/>     4 no reason to believe that it was not in 2008 that I<br/>     5 heard about this.</p> <p>6 Q. Okay. Did your meeting at the City of<br/>     7 West Jordan happen close in time to the initial<br/>     8 phone call with Jeff Robinson? Your recollection.</p> <p>9 A. It would have been relatively close,<br/>     10 within a few weeks.</p> <p>11 Q. Okay. Is it possible that it could have<br/>     12 even been within a few days?</p> <p>13 A. If I was not out of town, this is the<br/>     14 sort of thing that I would have handled fairly<br/>     15 quickly and that's how I typically would handle it<br/>     16 is decided whose caseload could take an<br/>     17 investigation, assign an investigator, set up a<br/>     18 meeting and basically I would make some<br/>     19 introductions and hand off the investigation. So if<br/>     20 it happened within a couple of days, that would make<br/>     21 sense but certainly was not more than a couple of<br/>     22 weeks.</p> <p>23 Q. Okay. And do you recall where that<br/>     24 meeting took place?</p> <p>25 A. I do. It was here in this building.</p> |
| <p style="text-align: right;">Page 11</p> <p>1 participated in, I'm sure this one didn't stick out<br/>     2 to you and there's no reason why you would have a<br/>     3 special memory of it so --</p> <p>4 A. That's actually accurate. This is one<br/>     5 that does not. It doesn't have facts that stuck in<br/>     6 my mind.</p> <p>7 Q. That's fine. And that's definitely<br/>     8 understandable, so I'm going to show you a document<br/>     9 that is already an exhibit in a prior deposition.</p> <p>10 A. Okay.</p> <p>11 Q. You know who Cord Skinner is, correct?</p> <p>12 A. I do.</p> <p>13 Q. Who is Cord?</p> <p>14 A. Cord, I believe he's still an<br/>     15 investigator at the attorney general's office but I<br/>     16 know Cord because I hired him and he worked for me<br/>     17 in the -- I believe at the time he was assigned to a<br/>     18 special investigations unit of the attorney<br/>     19 general's office.</p> <p>20 Q. Cord has given a deposition in this case<br/>     21 and an exhibit in his case, Exhibit No. 9, is the<br/>     22 report that he performed on the Aaron Jensen case.<br/>     23 In this report there might be some information that<br/>     24 at least would help you get an idea of when the time<br/>     25 period was. Would you mind just kind of skimming</p>  | <p style="text-align: right;">Page 13</p> <p>1 Q. Okay. And do you recall who was present<br/>     2 at that meeting?</p> <p>3 A. The city attorney, Jeff Robinson, was<br/>     4 present, I was present, Cord Skinner was there, and<br/>     5 a man that I think was acting city attorney. I knew<br/>     6 him --</p> <p>7 Q. You mean city manager?</p> <p>8 A. Or city manager, sorry, acting city<br/>     9 manager. I knew him as the fire chief, Brad Wardle.</p> <p>10 Q. Okay. Did Cord come because you had<br/>     11 already assigned him to be the person to investigate<br/>     12 on this case?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And who made the decision to<br/>     15 assign Cord to the case?</p> <p>16 A. I don't recall. Typically I would just<br/>     17 take a look at an individual investigator's caseload<br/>     18 in a unit and consult with a supervisor of that unit<br/>     19 and just -- I probably made that decision but I<br/>     20 don't recall. I certainly ratified it.</p> <p>21 Q. Okay. And at the meeting that you had<br/>     22 with Jeff Robinson, Cord Skinner and Brad Wardle, do<br/>     23 you recall -- I know you're not going to recall the<br/>     24 specifics. Do you recall any of the topics that<br/>     25 were discussed that day?</p>                                      |

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| <p style="text-align: right;">Page 14</p> <p>1       A. I recall a fairly brief description of<br/>2       the nature of what it was that West Jordan was<br/>3       asking. I believe that Jeff Robison was primarily<br/>4       the spokesperson. I recall telling Mr. Wardle and<br/>5       Mr. Robinson a little bit about Cord Skinner and why<br/>6       I assigned Cord Skinner to the case and that's<br/>7       really about all I remember. I don't remember it<br/>8       being a long, drawn-out meeting.</p> <p>9       <b>Q. Okay. Why don't we look again at Cord</b><br/>10      <b>Skinner's report that's Exhibit 9 to his deposition,</b><br/>11      <b>and he has an investigative summary. Could you just</b><br/>12      <b>kind of read over that for a moment and see if</b><br/>13      <b>that -- just read over it for a moment.</b></p> <p>14      A. I've now looked at that and it refreshes<br/>15      my memory.</p> <p>16      <b>Q. As far as -- I know you said it was</b><br/>17      <b>discussed kind of what the city wanted to be looked</b><br/>18      <b>at. Does that help you recall specifically what the</b><br/>19      <b>city wanted the AG to look into?</b></p> <p>20      A. It does, particularly item 3, the issue<br/>21      of not completing reports. I recall that -- whether<br/>22      it was that meeting or by another means, I recall<br/>23      that there were a lot of reports. I recall thinking<br/>24      that it was appropriate for Cord for some unique<br/>25      talents he had.</p> | <p style="text-align: right;">Page 16</p> <p>1       chiefs, city administrators, and I had a pretty -- I<br/>2       wouldn't say it was a standard speech but there were<br/>3       certain elements of a meeting like this that I would<br/>4       try to take some measure of control and I would<br/>5       communicate, here's how we do business.</p> <p>6       I would introduce the investigator,<br/>7       introduce Cord Skinner, tell them why I'd assigned<br/>8       Cord Skinner. That Cord was very familiar with the<br/>9       mechanics of policing. That he was one of my best<br/>10      investigators for complicated, long-term<br/>11      investigations. I doubt that I told them about his<br/>12      caseload. I may have. I don't know.</p> <p>13      I would explain that once the<br/>14      investigation began, that it was a one-way street of<br/>15      communication. That Mr. Robinson and Mr. Wardle<br/>16      were involved. They were welcome to talk to Cord<br/>17      and talk to me but that we would not keep them --<br/>18      that we wouldn't be giving them progress reports.<br/>19      They needed to understand that by turning something<br/>20      over to us, it became our investigation, our work<br/>21      product and that our staff would decide how the<br/>22      investigation would proceed until we were to the<br/>23      point of a conclusion.</p> <p>24      I also gave them a caution, because by<br/>25      this time I'd had experience in one, maybe two other</p> |
| <p style="text-align: right;">Page 15</p> <p>1       I remember that there were a number of<br/>2       cases that he would have to review related to<br/>3       improperly completed reports and improperly<br/>4       closed-out reports as well as allegations that<br/>5       reports had been -- that there were inaccurate<br/>6       statements in reports.</p> <p>7       I do not -- and I remember something<br/>8       about the statistics. I don't remember anything<br/>9       about being a ghost sergeant. I don't remember that<br/>10      being discussed.</p> <p>11      <b>Q. And do you recall the city -- were they</b><br/>12      <b>requesting for a criminal investigation into Aaron</b><br/>13      <b>Jensen at that time?</b></p> <p>14      A. No.</p> <p>15      <b>Q. Okay. And do you recall any statements</b><br/>16      <b>made by you or by Cord in that meeting in regards to</b><br/>17      <b>the process or the procedures if possible criminal</b><br/>18      <b>activity is discovered in their IA?</b></p> <p>19      A. It wouldn't have been Cord. It would<br/>20      have been me.</p> <p>21      <b>Q. Okay.</b></p> <p>22      A. Although I don't remember the specifics<br/>23      of this meeting, I have had a number of meetings<br/>24      similar to that, both before this and after, with<br/>25      mayors, county commissioners, city attorneys, police</p>  | <p style="text-align: right;">Page 17</p> <p>1       cases where someone asked us to look at something<br/>2       that they felt was administrative in nature and so I<br/>3       made a comment to the effect that we start down the<br/>4       street, you don't get to decide what happens if we<br/>5       get at the intersection of administrative and<br/>6       criminal.</p> <p>7       If we find -- you can deal with the<br/>8       administrative stuff but if we find misconduct that<br/>9       arises to one of two levels, we will pursue it and<br/>10      you don't get to tell us no. And those two levels I<br/>11      would have specified. If we find something that the<br/>12      statute requires or suggests that we should report<br/>13      to Police Officer Standards and Training, we will,<br/>14      and then they can choose to take their own<br/>15      investigation or not. But we'll report it to them.<br/>16      We'll let you know, but we won't ask.</p> <p>17      And, if we find criminal conduct, we<br/>18      will either -- typically a case like this would have<br/>19      gone to -- we would have taken it to the presiding<br/>20      district or county attorney in a jurisdiction so it<br/>21      would have gone to the Salt Lake County District<br/>22      Attorney's Office.</p> <p>23      I remember saying something like that<br/>24      but that wasn't out of the ordinary. I mean, every<br/>25      one of the meetings that I had with government</p>                      |

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| <p style="text-align: right;">Page 18</p> <p>1 officials in similar situations but in different<br/>     2 jurisdictions I basically laid out all those steps.<br/>     3 Here's the investigator. Here's what we do. We<br/>     4 take information. We don't provide it back to you<br/>     5 until we're all done. We get to make the choices as<br/>     6 to the consequence of what we find.</p> <p>7 Then I probably -- typically I would<br/>     8 say, "If that's not acceptable to you, that's fine,<br/>     9 but then we're not offering any services." I don't<br/>     10 remember the specific words, sir, but that's pretty<br/>     11 much it.</p> <p>12 Q. Appreciate it. Why is it that you would<br/>     13 tell the agencies or the people that they don't have<br/>     14 control or decision if there is possible criminal<br/>     15 conduct found? You mentioned those two<br/>     16 incidences -- that you give a report to POST if it's<br/>     17 record or to the DA. Why is it that you would feel<br/>     18 the need to inform them that that wasn't in their<br/>     19 control, that that was beyond their control if that<br/>     20 was discovered?</p> <p>21 A. Well, for a couple of reasons. I had<br/>     22 had experiences in the past where a senior<br/>     23 government official, upon learning that the<br/>     24 investigation wasn't going the direction he thought<br/>     25 it would, wanted the investigation stopped.</p>                               | <p style="text-align: right;">Page 20</p> <p>1 probable cause that a crime had been committed, he<br/>     2 could identify the person who committed the crime,<br/>     3 if they chose to not report it or chose to try to<br/>     4 ignore it, is it possible that person could be<br/>     5 charged with a crime?</p> <p>6 A. I would discipline that person<br/>     7 vigorously if that person worked for me.</p> <p>8 Q. Did the AG's office in their<br/>     9 investigation or I guess Cord Skinner in his<br/>     10 investigation, are you aware that he ever found any<br/>     11 conduct that he thought might be criminal conduct by<br/>     12 Aaron Jensen?</p> <p>13 A. He did.</p> <p>14 Q. Would that have been his decision or a<br/>     15 joint decision between you and him to -- did he<br/>     16 report those issues to you?</p> <p>17 A. He did.</p> <p>18 Q. And what was the common -- and I think<br/>     19 you kind of hinted at this before but let me get a<br/>     20 little more particular. When that was reported to<br/>     21 you, what was the common practice for the AG's<br/>     22 office? When there was possible criminal<br/>     23 misconduct, what was the common practice or<br/>     24 procedure on how to proceed after that point?</p> <p>25 A. If the alleged criminal conduct did not</p>  |
| <p style="text-align: right;">Page 19</p> <p>1 I mean, I don't want it to sound to you<br/>     2 as if this was a chest-thumping exercise. I just<br/>     3 wanted everybody to understand that, by experience,<br/>     4 we'd just learned this was the best way to do it.</p> <p>5 Q. Upfront.</p> <p>6 A. Upfront. Just let everybody know<br/>     7 upfront. If you're okay with that, great. If not,<br/>     8 fine, we'll walk away.</p> <p>9 And also because the attorney general's<br/>     10 office, the investigation division of the attorney<br/>     11 general's office, by statute, is an investigative<br/>     12 agency with statewide law enforcement authority and<br/>     13 there's both an obligation under the law as well as<br/>     14 an ethical obligation for law enforcement officers<br/>     15 that if evidence of a crime is discovered such that<br/>     16 the investigating officer believes that there's<br/>     17 probable cause basis to believe that a crime has<br/>     18 been committed and the person that committed can be<br/>     19 identified, both under policy and ethical standards,<br/>     20 an officer, including our own, would approach a<br/>     21 prosecutor to screen the case for criminal charges.<br/>     22 That was not -- if you're getting at saying that was<br/>     23 unique to this situation, it simply was not.</p> <p>24 Q. Okay. If an officer had discovered<br/>     25 information like you stated that he felt there was</p> | <p style="text-align: right;">Page 21</p> <p>1 cross county lines, significantly cross county<br/>     2 lines -- that is, if there was not an allegation<br/>     3 that criminal events occurred in multiple counties,<br/>     4 not just someone might live in a different county,<br/>     5 and if the subject matter was not a subject matter<br/>     6 that was within the exclusive or near exclusive<br/>     7 province of the attorney general's office -- for<br/>     8 example, when we investigate officers accused of<br/>     9 being involved in child pornography, we have<br/>     10 specialized prosecutors and specialized prosecutors<br/>     11 for a few other areas, then typically the<br/>     12 investigator would go to the local prosecutorial<br/>     13 authority in Salt Lake County and the district<br/>     14 attorney's office, in the other 28 counties it would<br/>     15 be the county attorney's office and make a screening<br/>     16 appointment just like any other investigator in that<br/>     17 particular county and present the investigation<br/>     18 without any further involvement from me or from<br/>     19 anybody in our office.</p> <p>20 Q. Are you aware that's what happened in<br/>     21 this case?</p> <p>22 A. I believe so. I believe I recall Agent<br/>     23 Skinner telling me he thought that he had something<br/>     24 that needed to be screened. And it wasn't so much<br/>     25 asking, as notifying me because I was his chief, as</p> |

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| <p>1 a matter of courtesy that he was going to go screen<br/>     2 it with -- I don't know that I ever knew but<br/>     3 somebody at the district attorney's office.</p> <p>4 Q. And would he have done that shortly<br/>     5 after the completion of his investigation?</p> <p>6 A. That would be the typical process.</p> <p>7 Q. Do you recall when or approximately when<br/>     8 he finished his investigation?</p> <p>9 A. I don't.</p> <p>10 Q. These reports are normally given right<br/>     11 at the end of the investigation; is that correct?</p> <p>12 A. Typically when the investigation is<br/>     13 concluded his supervisor or myself would approve the<br/>     14 report and that's typically the time that it would<br/>     15 be taken for screening.</p> <p>16 Q. Okay. The report date, what was the<br/>     17 report date that Cord Skinner drafted his<br/>     18 investigative summary?</p> <p>19 A. February 23, 2009.</p> <p>20 Q. And you don't have any information that<br/>     21 would lead you to believe that's not --</p> <p>22 A. That's about the right timeframe but I<br/>     23 have no recollection of the precise date.</p> <p>24 Q. Okay. But would it have been normal for<br/>     25 a meeting with the DA to be somewhere close to that</p>                                     | <p>1 going to come to present the case or anything like<br/>     2 that.</p> <p>3 A. I'm pretty sure I didn't.</p> <p>4 Q. And normally you wouldn't have been<br/>     5 involved in the case going to the district attorney;<br/>     6 is that correct?</p> <p>7 A. No. That is correct. If the<br/>     8 investigator felt that there was probable cause to<br/>     9 believe that a crime was committed and probable<br/>     10 cause to believe they could identify the person who<br/>     11 committed the crime, the investigator had the<br/>     12 authority to set up a screening appointment and<br/>     13 would be responsible for setting the screening and<br/>     14 going to -- at the time I think they were just doing<br/>     15 in-person screens -- going to the screening meeting</p> <p>16 Q. Okay. Do you recall during Cord's<br/>     17 investigation, was it normal practice or procedure<br/>     18 to have someone from the local agency provide a<br/>     19 contact person or someone for investigator to be<br/>     20 able to contact to get information?</p> <p>21 A. That was routine and that typically<br/>     22 would be someone assigned at the first meeting with<br/>     23 me and the city manager or the county commissioner,<br/>     24 the sheriff or whomever. Typically that would be<br/>     25 someone in a command position because we would want</p> |
| Page 23   | Page 25  |
| <p>1 time period?</p> <p>2 A. Typically, I don't even remember who<br/>     3 was district attorney at the time. There have been<br/>     4 times when it's been easy to get into the DA's<br/>     5 office for a screening. There's times that, unless<br/>     6 somebody's in custody, you take a number and wait<br/>     7 for a while, but it would have been in the general<br/>     8 timeframe. I would not have been involved in<br/>     9 setting that up, so I don't know.</p> <p>10 Q. Okay. So the district attorney at the<br/>     11 time, to my understanding, was Laura Miller. Do you<br/>     12 know her?</p> <p>13 A. I do.</p> <p>14 Q. How do you know her?</p> <p>15 A. Her husband -- I think it's her former<br/>     16 husband now -- wrote a paper about caves being<br/>     17 eligible for designation as federal wilderness<br/>     18 areas, an area of some interest to me, and I edited<br/>     19 the paper years ago and got to know him casually<br/>     20 through that and so I knew his wife ever so casually<br/>     21 in that context. And then I would have been in<br/>     22 various meetings with her during the tenure she held<br/>     23 as district attorney.</p> <p>24 Q. Okay. But you don't recall calling her<br/>     25 and giving her this case or telling her Cord was</p> | <p>1 to get access to the agency's files and records so<br/>     2 we need somebody that had the authority to do that.</p> <p>3 Q. Okay. Do you know a Captain Gary Cox?</p> <p>4 A. I do.</p> <p>5 Q. Do you recall, was he the person that<br/>     6 was assigned that role in Cord Skinner's<br/>     7 investigation?</p> <p>8 A. I don't remember.</p> <p>9 Q. That's fine. That's something Cord<br/>     10 would better testify to?</p> <p>11 A. Yeah. I wouldn't have had -- I've known<br/>     12 Gary Cox for a long time but I wouldn't have had<br/>     13 any -- I typically would not and did not in this<br/>     14 case have any dealings at that level once the<br/>     15 investigation started. That would have been the<br/>     16 investigator's duty.</p> <p>17 Q. But that is normal to have someone in<br/>     18 that role in the local agency to assist the<br/>     19 investigator from the attorney general's office.</p> <p>20 A. The rule, the typical operation would be<br/>     21 the command level person at the agency would be<br/>     22 designated and would be the go-to person who -- they<br/>     23 may not even be told why but that's someone that<br/>     24 Cord could go to, whether it was Captain Cox or<br/>     25 someone else. Cord could say, "I need this span of</p>  |

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| <p style="text-align: right;">Page 26</p> <p>1 records or I need access to this officer. Please<br/>2 set it up."</p> <p>3 Q. Okay. To your knowledge, did West<br/>4 Jordan ever try to do anything to influence change<br/>5 or have any effect on the investigation of the<br/>6 attorney general's office?</p> <p>7 A. No.</p> <p>8 Q. Did they ever try to put pressure on the<br/>9 attorney general's office to contest certain<br/>10 outcome?</p> <p>11 A. No.</p> <p>12 Q. What would have been your reaction if<br/>13 somebody had attempted to do any of those things?</p> <p>14 A. They would have been loudly, vigorously<br/>15 and aggressively rebuffed.</p> <p>16 Q. Did you ever hear Cord Skinner report to<br/>17 you that someone tried to influence him personally<br/>18 or tried to do anything to determine the outcome of<br/>19 the case to him personally?</p> <p>20 A. No. And by this point in Cord's career<br/>21 he had worked for me long enough that he, I'm<br/>22 certain, knew how I would respond to something like<br/>23 that. I prized our agency's independence and held<br/>24 that to be of significant value and my staff knew<br/>25 that.</p>  | <p style="text-align: right;">Page 28</p> <p>1 confidence in his ability to make those kind of<br/>2 determinations.</p> <p>3 Q. Okay.</p> <p>4 A. Had then; still do.</p> <p>5 Q. From what you've seen in the report and<br/>6 what you know about that investigation and reporting<br/>7 it to the DA, was there anything unusual or<br/>8 different or strange about this case than a normal<br/>9 case the AG handles?</p> <p>10 A. No. There have been a number of cases<br/>11 throughout the state but also here in Salt Lake<br/>12 County where we've investigated, found evidence of a<br/>13 crime, often evidence that wasn't known to the<br/>14 agency, took it to the district attorney's office<br/>15 and prosecuted police officers.</p> <p>16 Q. Okay. No one asked West Jordan City's<br/>17 permission or anything to take it to the DA; is that<br/>18 correct?</p> <p>19 A. No. I mean no, we did not. That's not<br/>20 again -- first they would have been told that's not<br/>21 something they get to decide.</p> <p>22 Q. Okay. Were you aware that Laura Miller<br/>23 had previously been an employee of West Jordan?</p> <p>24 A. I was not aware then and, if you're<br/>25 telling me that now, that's news to me.</p> |
| <p style="text-align: right;">Page 27</p> <p>1 Q. Okay. And was it normal for Cord to<br/>2 periodically give a report, whether it's just<br/>3 telephonically or in person, of the progress of the<br/>4 investigations he was working on?</p> <p>5 A. Yes. Not in any great detail.</p> <p>6 Q. Okay. Did you ever discuss -- and you<br/>7 might not recall, but do you recall ever discussing<br/>8 with Cord the decision to turn things over to the<br/>9 Salt Lake County District Attorney's Office?</p> <p>10 A. As I mentioned, it would be typical for<br/>11 him to just give me a courtesy notification. You<br/>12 know, I did ask my staff, not just in this context,<br/>13 but any context, that if they were going to have<br/>14 significant contact from an outside agency, that<br/>15 they just let me know. So I'm pretty sure he'd let<br/>16 me know but I don't recall any substantive<br/>17 discussion. Certainly he would not need to ask my<br/>18 permission to clear it with me.</p> <p>19 Q. Okay. Do you recall -- and you might<br/>20 not. Do you recall ever reviewing any of the<br/>21 evidence to see if you believed there was sufficient<br/>22 evidence for him to do that or did you leave that up<br/>23 to him?</p> <p>24 A. I did not. Among the reasons Cord was<br/>25 assigned to this case is that I had a lot of</p> | <p style="text-align: right;">Page 29</p> <p>1 Q. Okay. But, if you had known, that<br/>2 wouldn't have affected your decision or the<br/>3 investigation on how it proceeded by the AG's<br/>4 office; is that correct?</p> <p>5 A. That's correct.</p> <p>6 Q. Do you know Judge Paul Parker?</p> <p>7 A. I do.</p> <p>8 Q. Do you know Robert Parrish?</p> <p>9 A. Yes.</p> <p>10 Q. Are you aware -- I should have asked you<br/>11 this first. Do you know who at the Salt Lake County<br/>12 District Attorney's Office met with Cord and took<br/>13 over that investigation?</p> <p>14 A. I don't.</p> <p>15 Q. Okay. Do you believe Paul Parker is a<br/>16 competent and intelligent prosecutor, that he had<br/>17 the ability to understand his role as a prosecutor<br/>18 and to fulfill those roles?</p> <p>19 A. Well, he was. He's now a judge but --</p> <p>20 Q. At the time he was a prosecutor did you<br/>21 feel he was?</p> <p>22 A. I did. I've known Judge Parker for many<br/>23 years. He's a former Uintah Basin resident and I<br/>24 had then and still have respect for his professional<br/>25 capabilities.</p>  |

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| <p style="text-align: right;">Page 30</p> <p>1     Q. And Robert Parrish, do you believe that<br/>     2     he -- and I believe he is still a prosecutor at the<br/>     3     DA's office. Do you believe that he is a competent<br/>     4     prosecutor and understands the process and how --<br/>     5     what's your opinion of Robert Parrish?</p> <p>6     A. I knew Mr. Parrish through some child<br/>     7     abuse prosecutions. I did not know he was with the<br/>     8     district attorney's office but, in my dealings, I<br/>     9     always found him to be very competent and very<br/>     10    professional.</p> <p>11    Q. Were you ever aware that Aaron Jensen<br/>     12    had filed a sexual harassment claim against some of<br/>     13    his superiors in the West Jordan Police Department?</p> <p>14    A. I heard that at some point. I don't<br/>     15    know at what point I heard that.</p> <p>16    Q. Do you believe it was during the<br/>     17    investigation or after?</p> <p>18    A. I don't know.</p> <p>19    Q. With that information, if you were aware<br/>     20    of it during the investigation or not aware of it<br/>     21    during the investigation, would that information<br/>     22    change the way the investigation is performed?</p> <p>23    A. No.</p> <p>24    Q. Why not?</p> <p>25    A. It would not be uncommon -- the kind of</p> | <p style="text-align: right;">Page 32</p> <p>1     Office. We're in Salt Lake City.<br/>     2     A. Nice to meet you.<br/>     3     Q. You too. Do you know Aaron Jensen.<br/>     4     A. I do not.<br/>     5     Q. You've never met him?<br/>     6     A. No.<br/>     7     Q. Have you ever seen Aaron on the news?<br/>     8     A. No.<br/>     9     Q. And you were the chief of special<br/>     10    investigations unit for the AG's office; is that<br/>     11    right?<br/>     12    A. No. I was the chief law enforcement.<br/>     13    The special investigations chief would have worked<br/>     14    for me.<br/>     15    Q. Okay. And you were in that position for<br/>     16    over ten years?<br/>     17    A. Nine.<br/>     18    Q. Until April 2014?<br/>     19    A. Correct.<br/>     20    Q. And did you retire?<br/>     21    A. I did.<br/>     22    Q. Okay.<br/>     23    A. You should make that your goal, to<br/>     24    retire on April Fool's Day. When you're at the<br/>     25    party tell everybody you're kidding.</p>   |
| <p style="text-align: right;">Page 31</p> <p>1     cases that the attorney general's office would be<br/>     2     asked to look at by a local entity more often than<br/>     3     not involved some difficulty, some thorniness, some<br/>     4     allegation of bias or nepotism or prejudice and<br/>     5     we didn't really get the routine cases. Because of<br/>     6     that, our investigators always had to be very<br/>     7     sensitive to understanding that there were emotions<br/>     8     and biases at work.</p> <p>9     I would have expected if Cord Skinner<br/>     10    had been told that, I would have expected that he<br/>     11    would have, while being aware of it, he would have<br/>     12    been just as thorough in his investigative process<br/>     13    as if he hadn't been aware of it.</p> <p>14    MR. DODD: I don't think I have any<br/>     15    other questions for you today.</p> <p>16    THE WITNESS: All right. Do you have<br/>     17    any questions?</p> <p>18    MS. LEONARD: I do.</p> <p>19    THE WITNESS: We're going to take a<br/>     20    break.</p> <p>21    (Recess.)</p> <p>22    EXAMINATION</p> <p>23    BY MS. LEONARD:</p> <p>24    Q. I'm Ashley Leonard. I'm one of Aaron<br/>     25    Jensen's attorney. The firm is Hollingsworth Law</p>  | <p style="text-align: right;">Page 33</p> <p>1     Q. And in your role as chief, how often<br/>     2     were you asked to conduct internal investigations<br/>     3     into a public employee from a different agency?<br/>     4     A. Well, the number would certainly<br/>     5     fluctuate but I think probably every month, maybe<br/>     6     every two months.</p> <p>7     Q. Okay. And every month, would that just<br/>     8     be one request from an agency?</p> <p>9     A. Yes.</p> <p>10    Q. And how would you typically receive that<br/>     11    communication?</p> <p>12    A. There could be a couple of ways. I<br/>     13    suppose the most common would be to receive a phone<br/>     14    call directly. Another common path would be for<br/>     15    the -- there's a committee in the attorney general's<br/>     16    office, or was, I think it's still there -- called<br/>     17    the civil review committee and that is a group<br/>     18    of assistant attorneys general and other staff<br/>     19    members who review and receive complaints from<br/>     20    private citizens, from government employees and<br/>     21    government entities about alleged misdoings in<br/>     22    government operations.</p> <p>23    And so the civil review committee<br/>     24    occasionally would refer a case. In other words,<br/>     25    someone would come to them and they'd say, "Not</p> |

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| <p style="text-align: right;">Page 34</p> <p>1 appropriate for us. See Chief Wallentine."</p> <p>2 Or they may ask to have an investigator</p> <p>3 assigned to them to assist them in an investigation.</p> <p>4 And occasionally -- I can't think of any specific</p> <p>5 occasion but occasionally the attorney general or</p> <p>6 one of the chief deputies might make a phone call or</p> <p>7 refer somebody to me.</p> <p>8 Q. Okay. In this case, to the best of your</p> <p>9 knowledge, you remember it was Jeff Robinson who</p> <p>10 called you directly.</p> <p>11 A. I believe so.</p> <p>12 Q. Had you known Jeff Robinson prior to</p> <p>13 that phone call?</p> <p>14 A. I don't think so. You know, he may have</p> <p>15 participated in continuing education activities or</p> <p>16 something that I had done over the years but I</p> <p>17 certainly didn't have any relationship with him.</p> <p>18 Q. Okay. Had he ever asked you prior to</p> <p>19 calling about Aaron Jensen to investigate a West</p> <p>20 Jordan Police Department employee?</p> <p>21 A. I don't think so.</p> <p>22 Q. After Aaron's case did he ever call you</p> <p>23 to ask for a similar favor?</p> <p>24 MR. DODD: Objection. Misstates</p> <p>25 testimony.</p> | <p style="text-align: right;">Page 36</p> <p>1 other than telling me the general nature. I believe</p> <p>2 that in the phone call he may have said something</p> <p>3 about there being a number of reports because that</p> <p>4 probably was a factor in why I selected Cord</p> <p>5 Skinner. And I don't know if he suggested or if I</p> <p>6 told him that it would be my preference because it</p> <p>7 was my routine practice.</p> <p>8 My employees and family will tell you, I</p> <p>9 don't like telephones. I prefer to be in a room</p> <p>10 with somebody. So I probably said, "You know, I</p> <p>11 would prefer to come and sit down with you and bring</p> <p>12 the investigator and tell us what you've got."</p> <p>13 Q. Okay. And you said that you assigned</p> <p>14 Cord because of the number of reports; is that</p> <p>15 right?</p> <p>16 A. No. I assigned Cord in part because</p> <p>17 there were a number of reports and Cord had -- when</p> <p>18 Cord worked for me he handled a few cases that had a</p> <p>19 lot of document management needs and he also had</p> <p>20 particular skill with records management systems.</p> <p>21 In law enforcement there are a number of</p> <p>22 RMSs or records management systems and Cord had had</p> <p>23 experience working with different agencies' record</p> <p>24 management systems. So that, and the fact that he</p> <p>25 was a really good investigator and, as I recall, had</p> |
| <p style="text-align: right;">Page 35</p> <p>1 A. I don't know that -- I don't know that I</p> <p>2 ever had any other communication with him about any</p> <p>3 other cases. It certainly wasn't referred to as a</p> <p>4 favor. It's just something that was a fairly</p> <p>5 routine type of request for our office.</p> <p>6 Q. Okay.</p> <p>7 A. If I had any other contact with him, I</p> <p>8 don't recall.</p> <p>9 Q. Do you know how he knew to call you?</p> <p>10 MR. DODD: Objection. Speculation.</p> <p>11 A. I don't. I mean, at the time you could</p> <p>12 go to the attorney general's website and find my</p> <p>13 name and contact information. I've been a police</p> <p>14 officer or practicing public attorney for well over</p> <p>15 three decades and I've served on a number of bar</p> <p>16 committees. I'm not that hard to find.</p> <p>17 Q. Okay.</p> <p>18 A. I try to be now that I'm old and</p> <p>19 retired. I try to be in sunny places most of the</p> <p>20 time.</p> <p>21 Q. What do you remember Jeff Robinson</p> <p>22 telling you in that phone call?</p> <p>23 MR. DODD: Objection. Asked and</p> <p>24 answered.</p> <p>25 A. I don't remember much of the phone call</p>   | <p style="text-align: right;">Page 37</p> <p>1 some time, made him a good candidate.</p> <p>2 Q. Okay. Do you remember if Jeff Robinson</p> <p>3 had told you that a lieutenant and a captain from</p> <p>4 the West Jordan Police Department had already</p> <p>5 internally investigated Aaron?</p> <p>6 MR. DODD: Objection. Form of the</p> <p>7 question.</p> <p>8 A. I don't recall. I don't remember.</p> <p>9 Q. And if you'd look at Exhibit 9 from Cord</p> <p>10 Skinner's deposition. Have you seen Exhibit 9</p> <p>11 before today?</p> <p>12 A. Yes.</p> <p>13 Q. When did you first see it?</p> <p>14 A. I don't recall but it would have been</p> <p>15 about the time that it was completed, submitted for</p> <p>16 approval, so it would have been over five years ago.</p> <p>17 Q. Okay. And the investigative summary</p> <p>18 that we're looking at, what's that report date?</p> <p>19 A. February 23, 2009.</p> <p>20 Q. Okay. Would that have been the date</p> <p>21 that it was completed or submitted for approval?</p> <p>22 A. That's typically the day -- it should</p> <p>23 have been the day it was completed.</p> <p>24 Q. Okay. So would you have approved this</p> <p>25 report around that time?</p>   |

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